

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRACY ROBERTS,

Plaintiff,

REMAND ORDER

-against-

23-cv-4662 (AEK)

TARGET CORPORATION and 5 STAR
CONSTRUCTION UNLIMITED LLC,

Defendants.

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TARGET CORPORATION,

Third-Party Plaintiff,

-against-

RWC LANDSCAPE SERVICES
MANAGEMENT INC.,

Third-Party Defendant.

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RWC LANDSCAPE SERVICES
MANAGEMENT INC.,

Fourth-Party Plaintiff,

-against-

5 STAR CONSTRUCTION UNLIMITED LLC,

Fourth-Party Defendant.

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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

On December 13, 2024, Plaintiff moved for leave to amend her complaint to bring a direct claim against 5 Star Construction Unlimited LLC (“5 Star”), which had previously been in the case only as a Fourth-Party Defendant. *See* ECF No. 68. The Court granted the motion for

leave to amend on December 18, 2024, *see* ECF No. 74, and Plaintiff filed her amended complaint on December 19, 2024, *see* ECF No. 75. Because Plaintiff, a New York citizen, now brings a direct claim against 5 Star, a New York limited liability company, Plaintiff and 5 Star are now non-diverse adverse parties, and this Court no longer has jurisdiction to hear this case under 28 U.S.C. § 1332 based on the diversity of the parties. *See Merrill Lynch & Co. v. Allegheny Energy, Inc.*, 500 F.3d 171, 179 (2d Cir. 2007); *Rocky Aspen Mgmt. 204 LLC v. Hanford Holdings LLC*, 358 F. Supp. 3d 279, 283 (S.D.N.Y. 2019). Since diversity jurisdiction was the only basis for federal court jurisdiction in this matter, *see* ECF No. 1 ¶ 4, the absence of diversity jurisdiction means that this case must be remanded back to New York State Supreme Court, Orange County.

Accordingly, the Clerk of Court is respectfully directed to REMAND this case to New York State Supreme Court, Orange County.

Dated: December 20, 2024
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge